

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Sackin Metals, Inc.
A California Corporation
15201 Transistor Lane
Huntington Beach, California 92649
(Orange County)

EPA ID# CAD982042483

Respondent

Docket No: HWCA 20071572

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Sackin Metals, Inc., A California Corporation (Respondent) enter into this Consent Order and agree as follows:

1. Respondent is a scrap metal recycler that accepted, transported, and stored hazardous waste at 15201 Transistor Lane, Huntington Beach, California 92649 (Site) in Orange County.
2. The Department inspected the Site on October 30, 2003.
3. The Department alleges the following violations:
 - 3.1. Respondent violated California Health & Safety Code section 25189.2 and title 22, California Code of Regulations, section 66263.23, subsection (b), in that:
 - a) On or about January 10, 2003; February 17, 2003; March 20, 2003; April 29, 2003; June 26, 2003; September 25, 2003; and October 3, 2003, Respondent transported a total of about 48,984 lbs. of hazardous waste (range lead containing fine powders) from Firing-Line Indoor Shooting and Training

Range, Inc. (Firing-Line) and Shooting Range, Inc. (Shooting Range) to the Site. The Site is not authorized by the Department to receive hazardous waste; and

b) Between January 10, 2003 and June 26, 2003, Respondent accepted approximately 6 drums of range lead from Firing-Line and Shooting Range, and transported them to the Site for temporary storage at the Site. On August 18, 2003, Respondent delivered the drums to Liberty Mfg., Inc. (Liberty) in Los Angeles. Liberty is not authorized by the Department to receive hazardous waste.

3.2. Respondent violated California Health & Safety Code section 25163, subdivision (a) (1), in that:

a) On or about January 10, 2003; February 17, 2003; March 20, 2003; April 29, 2003; June 26, 2003; September 25, 2003; and October 3, 2003, Respondent transported 48,984 lbs. of range lead (a hazardous waste) from Firing-Line and Shooting Range to the Site without holding a valid registration issued by the Department; and

b) On or about August 18, 2003, Respondent transported approximately 6 drums of hazardous waste (range lead) from the Site to Liberty without holding a valid registration issued by the Department.

3.3. Respondent violated California Health & Safety Code section 25160, subdivision (d) (1) in that:

a) On or about January 10, 2003; February 17, 2003; March 20, 2003; April, 29, 2003; June 26, 2003; September 25, 2003; and October 3, 2003, Respondent transported approximately 48,984 lbs. of range lead (a hazardous waste) from Firing-Line and Shooting Range to the Site without a hazardous waste manifest; and

b) On or about August 18, 2003, Respondent transported approximately 6 drums of hazardous waste (range lead) from the Site to Liberty

without the possession of a manifest.

3.4. Respondent violated California Health & Safety Code section 25201 in that between October 3, 2003 and October 30, 2003, Respondent stored at its Site four drums (4,790 lbs.) of hazardous waste (range lead) received from Firing-Line without possessing proper authorization from the Department.

3.5. Respondent violated title 22, California Code of Regulations, section 66263.23, subsection (c) in that on or before October 3, 2003, Respondent transported from Firing-Line to the Site approximately 4,790 lbs. (four drums) of hazardous waste (range lead) subject to dispersion by wind in containers not covered.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent admits the allegations made in Section 3 of the Consent Order.

SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1. Compliance Conditions:

10.1.1. Effective immediately, Respondent shall not transport hazardous waste, including shooting range lead waste containing fine power, unless it holds a valid registration issued by the Department.

10.1.2. Effective immediately, if Respondent holds a valid registration issued by the Department, any hazardous wastes transported by the Respondent shall be delivered only to a hazardous waste facility authorized by the Department to accept the hazardous waste.

10.1.3. Effective immediately, Respondent shall not accept hazardous waste from a generator unless it is accompanied by a manifest completed and signed in accordance with applicable California Statutes and Regulation, such as the Hazardous Waste Control Law and California Code of Regulations, Title 22.

10.1.4. Effective immediately, Respondent shall neither accept nor store hazardous waste at its Site unless it first applies for and obtains a hazardous waste facility permit or other grant of authorization from the Department.

10.1.5. Effective immediately, Respondent shall use a covered container to transport any hazardous wastes that are subject to dispersion by wind.

10.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Florence Gharibian, Chief
Enforcement & Emergency Response Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to the Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other

writings by Respondent shall be construed to relieve Respondent of their obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Respondent Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Respondent Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Sites; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing

at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 15.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11.1. Respondent shall pay the Department a total of \$35,000 to be satisfied as noted below. Of this amount, \$27,000 is an administrative penalty, payable in quarterly installments. Respondent shall pay the first \$22,000 of the administrative penalty to DTSC in one (1) installment of \$4,000 and six (6) quarterly installments of \$3,000.

11.1.1. The first installment in the amount of \$4,000 is due and payable on May 10, 2008. The six (6) quarterly installments of \$3,000 each are due and payable on: August 10, 2008; and November 10, 2008; February 10, 2009; May 10, 2009; August 10, 2009; and November 10, 2009.

11.1.2. Any installment payment that is received by the Department more than 15 days after it is due will be subject to an additional \$250 administrative penalty, such penalty shall be paid by Respondent no later than the due date of the next installment payment. If Respondent is late in making two (2) or more payments, or fails to make a full installment payment within thirty (30) days of its due date, then the Department, at its option, may declare the entire balance of the outstanding penalty due and owing. If Respondent fails to make any payment timely as provided above, Respondent agrees to pay interest thereon at the rate established pursuant to Health and Safety Code section 25360.1. Respondent further agrees to pay all cost and attorney's fees incurred by the Department in pursuing the collection of any sums the payment of which becomes delinquent hereunder.

11.1.3. Respondent's checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher (attached as Exhibit 1 and incorporated by this reference) to:

Department of Toxic Substances Control
Accounting Office
1001 I Street (MS-21A)
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of each check shall be sent simultaneously to:

Florence Gharibian, Chief
Enforcement & Emergency Response Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

and

Vivian Murai, Senior Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, MS-23A
P. O. Box 806
Sacramento, California 95812-0806

11.2. Respondent hereby agrees to send three (3) employees to the California Compliance School, Modules I through IV. Attendance must be completed and Respondent must submit the Certificates of Satisfactory Completion (one certificate for each employee attending the California Compliance School) issued by the California Compliance School to the Department within 185 days of the effective date of this Order. When the Department receives the Certificates of Satisfactory Completion within 185 days of the effective date of this Order, \$5,000 of the administrative penalty shall be deemed satisfied.

11.2.1. If Respondent fails to submit the certificates as required, the penalty of \$5,000 shall be due 30 days after the 185-day deadline. The 185-day period may be extended by a Department Branch Chief upon a written request from the Respondent demonstrating good cause and received prior to the expiration of the 185 day deadline.

11.2.2. As a Supplemental Environmental Project, Respondent agrees to pay \$8,000 into the Environmental Enforcement and Training Account established by Assembly Bill 2486 (stats. 2003, ch.1000) under Penal Code section 14301. The amount of \$8,000 shall be paid on or before January 1, 2009, and shall be paid by cashier's check made payable to the Cal/EPA Environmental Enforcement and Training Account.

The Respondent shall send the original cashier's check with a copy of the signed Consent Order to:

Mr. Eric Jarvis, Assistant Secretary for
Fiscal and Administrative Programs
California Environmental Protection Agency
P.O. Box 2815
Sacramento, California 95812-2815

A copy of the cashier's check shall be sent to:

Vivian Murai, Senior Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, MS-23A
P. O. Box 806
Sacramento, California 95812-0806

and

Florence Gharibian, Chief
Enforcement & Emergency Response Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and their officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6. Signatories: By signing below, Respondent certifies that its signatory is fully authorized to enter in the terms and conditions of this Order, and to execute and legally bind Respondent to this Order.

Dated: 4/15/08

Original signed by Paul Sackin

Mr. Paul Sackin, President
Respondent

Dated: 5/2/08

Original signed by Florence Gharibian
Florence Gharibian, Chief
Enforcement & Emergency Response Program
Department of Toxic Substances Control